Bryan Hurlbutt
Staff Attorney
Advocates for the West
P.O. Box 1612
Boise, ID 83701

Re: EPA Action on Petition Regarding Hells Canyon TMDL for Nutrients

Dear Mr. Hurlbutt,

By this letter, EPA provides its full response declining to take the actions requested in your letter of March 9, 2015, requesting, on behalf of the Idaho Conservation League (ICL), that EPA "review, disapprove, and revise the Snake River-Hells Canyon Total Maximum Daily Load (Revised June 2004)" under Clean Water Act section 303(d). By letter dated September 9, 2004, EPA approved five total maximum daily loads (TMDLs) for adjacent stream segments (extending from River Mile 408 on the Boise River to the Hells Canyon Dam) addressing water quality impairments attributable to nutrients (specifically, phosphorus) developed by the Idaho Department of Environmental Quality (IDEQ). Collectively, the ICL letter identifies these five Idaho[1] TMDLs as the "Hells Canyon TMDL." The ICL letter requests that EPA re-review and disapprove the Hells Canyon TMDL and to revise and re-issue the Hells Canyon TMDL with a different nutrient target applicable year round in order to achieve the applicable water quality standard(s).

Reasons for ICL Petition

The ICL letter asserts that a 2011 report prepared by the U.S. Geological Survey shows that important assumptions that IDEQ used to justify a seasonal phosphorus target in the Hells Canyon TMDL were incorrect, and the 2011 report and further information shows nutrient water quality standards are not being met. The ICL letter explains that the 2011 report documents high concentrations of chlorophyll-*a*, both in the Boise and Snake Rivers, in winter and early spring, especially at the confluence of these two rivers, and that chlorophyll-*a* is a surrogate measure of algae growth, and that orthophosphate is the key driver behind chlorophyll-*a* concentrations. ICL avers that the total phosphorus concentration of the Snake River is increased by over fifty percent downriver of its confluence with the Boise River and that, though the 2011 report acknowledged that while algae growth is most prominent in the late spring and summer; algae grows and blooms in winter, early spring, and fall when phosphorous is released from sediments.

[1] Around the time that EPA approved the Hells Canyon TMDL applicable in Idaho waters, EPA also approved nutrient TMDLs for adjacent downstream waters prepared by the Oregon Department of Environmental Quality. The ICL letter does not request that EPA take action with respect to the Oregon TMDLs.

ICL points to the 2011 report to note that, on the Snake River, algae blooms have been observed as early as March.

ICL further notes that EPA has acknowledged the significance of this new information and recognized the need for year-round phosphorus limits citing to an EPA response to public comments on a wastewater discharge permit recently issued to an Idaho discharger under the National Pollutant Elimination System (NPDES). [EPA issues NPDES permits in the State of Idaho.] In the response to comments, EPA explained why an effluent limitation for phosphorus in for the discharge into the Hells Canyon reach were needed year-round. Moreover, in late 2012, EPA added portions of the lower Snake River (in the Hells Canyon reach) to Oregon's 303(d) list on the basis of non-attainment of that State's nutrient criteria for chlorophyll-*a*. Finally, ICL points to a draft phosphorus TMDL[2] for the lower Boise River prepared by IDEQ itself had proposed to establish a fixed phosphorus target to be attained at the mouth of the Boise River between May through September, as well as a monthly mean target from October through April. ICL asserts that the text of the draft TMDL reflects IDEQ's recognition of the need for year-round nutrient limits.

EPA Reasons for Declining ICL Petition

(b) (5)

[redacted]

[redacted]

[redacted]

[redacted]

(b) (5)

[redacted]

Thank you for your continued interest in protection of surface waters of the United States.

Sincerely,

Regional Administrator or Deputy Assistant Administrator